

RECORDATION NO. 18812
MAY 17 1994 - 3:45 PM

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May 17, 1994

Direct Dial: (202)466-6532

Honorable Sidney L. Strickland
Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Secretary Strickland:

I have enclosed three originals of the document described below, to be recorded pursuant to 49 U.S.C. §11303.

The document is an Interim User Agreement for Additional Locomotives, a primary document, dated as of May 13, 1994. Please assign this document the next available recordation number.

The names and addresses of the parties to the Interim User Agreement for Additional Locomotives are as follows:

Seller:

General Electric Company
33 West Monroe Street
Chicago, IL 60603

Buyer:

Southern Pacific Transportation Company
One Market Plaza
San Francisco, CA 94105

A description of the equipment covered by the document consists of 50 Dash 9-44CW locomotives numbered SP 8150-8199, inclusive.

counterparts Judith McDermid

BALL, JANIK & NOVACK

Honorable Sidney L. Strickland
May 17, 1994
Page 2

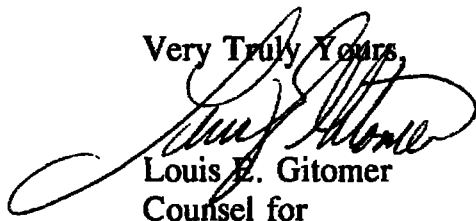
A fee of \$18.00 is enclosed. Please return two originals to:

Louis E. Gitomer
Ball, Janik & Novack
Suite 1035
1101 Pennsylvania Avenue, N.W.
Washington, DC 20004

A short summary of the document to appear in the index follows:

An Interim User Agreement for Additional Locomotives, dated as of May 13, 1994, between General Electric Company, 33 West Monroe Street, Chicago, IL 60603, and Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94105, covering 50 Dash 9-44CW locomotives numbered SP 8150-8199, inclusive.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Louis E. Gitomer", is written over the typed name and title.

Louis E. Gitomer
Counsel for
Southern Pacific
Transportation Company

Enclosure

MAY 17 1994 -3 45 PM

**INTERIM USER AGREEMENT
FOR ADDITIONAL LOCOMOTIVES INTERSTATE COMMERCE COMMISSION**

THIS INTERIM USER AGREEMENT (this "Agreement"), dated as of May 13, 1994, between **GENERAL ELECTRIC COMPANY**, acting through its Transportation Systems Business Operations ("GE"), and **SOUTHERN PACIFIC TRANSPORTATION COMPANY** ("SP").

WITNESSETH

WHEREAS, GE and SP have entered into a Purchase Agreement dated as of March 8, 1994 (the "Purchase Agreement"), calling for GE to manufacture and deliver to SP, and SP to accept and pay for, in accordance with the terms of the Purchase Agreement, 100 General Electric Company Dash 9-44CW locomotives to bear road numbers 8100-8199, inclusive; and

WHEREAS, SP intends to finance its purchase of such locomotives from GE pursuant to one or more forms of financing (the "Financing"), but delivery of the locomotives is scheduled to begin prior to the time SP will have completed said Financing; and

WHEREAS, SP desires that it be permitted to use the second 50 of said locomotives to be delivered and to bear road numbers 8150-8199 (the "Locomotives") pending establishment of such Financing and payment of the purchase price therefor, solely as a lessee thereof, and GE is willing to grant such custody and possession to SP upon the terms and conditions hereinafter provided;

NOW THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. GE, as lessor, hereby agrees to deliver the Locomotives to SP, as lessee, FOB GE's Erie, Pennsylvania plant, as of the date each of them is available to SP pursuant to the Purchase Agreement. SP covenants to GE that the Financing will be established and the purchase price for the Locomotives paid, not later than the dates specified in Section 4(c)(i) of the Purchase Agreement. On such dates as and when the purchase price of the Locomotives is paid to GE, this Agreement shall automatically terminate without further action by or notice to either party hereto, except for those provisions which, in order to be given effect, should survive termination.

2. Upon delivery of each Locomotive meeting the requirements of and in accordance with the terms of the Purchase Agreement, SP's representative shall execute a Certificate of Acceptance, in the form of Annex 1 hereto. During the term hereof for so long as the purchase price shall not have been paid, title to the Locomotives shall remain in GE with SP's rights and interests therein being solely that of possession, custody and use as lessee hereunder. Transfer of title shall be

effected only at the time of GE's delivery of bills of sale to the party that has paid the purchase price therefor.

3. The purchase price for the Locomotives shall be paid by or on behalf of SP to GE as contemplated by, and in accordance with the terms and conditions of, the Purchase Agreement. Subject to the SP's timely payment of the purchase price for the Locomotives, pending such payment SP shall not be required to make monthly rent payments on account of its possession of the Locomotives. In the event that as a result of a breach of SP's obligations under the Purchase Agreement payment of the purchase price is delayed past the date required by the Purchase Agreement, SP agrees to pay to GE as daily rent for each Locomotive the sum of \$600 for each day from and after such due date for payment of the purchase price.

4. SP shall permit no liens or encumbrances of any kind superior to those of GE to attach to the Locomotives, and SP agrees to indemnify and hold GE harmless from and against any and all claims, expenses or liabilities of whatsoever kind (including, without limitation, attorneys' fees and costs) that may arise by, through or under SP during the time any of the Locomotives are in the possession of SP hereunder except to the extent of claims arising from the willful misconduct or negligent acts of omissions of GE; provided, however, SP shall not be required to pay or indemnify, hold harmless or reimburse GE pursuant to this Section 4 for any taxes, whether or not SP is required to pay, indemnify, hold harmless or reimburse therefor under Section 5 hereof, SP's entire obligation with respect to taxes being fully set forth in such Section 5.

5. (a) SP agrees to pay to, or reimburse GE for, all license fees and taxes including sales, use, gross receipts, transfer, property or similar taxes, together with any penalties, fines or interest thereon imposed against GE, SP, the Locomotives or any item thereof by any Federal, state or local government or taxing authority in the United States or by any foreign government or any subdivision or taxing authority thereof upon or with respect to the transactions contemplated by this Agreement and upon or with respect to the Locomotives or any item thereof, or upon the ownership, leasing, possession, use or operation of the Locomotives or any item thereof, or upon or with respect to rent payable by SP (all such fees, taxes and penalties, and all interest imposed in connection therewith, being hereinafter called "Taxes"); provided, however, that SP's obligation hereunder shall not apply to: (i) any income, franchise or capital taxes that are on or measured by net income (including any minimum or alternative minimum income taxes and any income taxes on or measured by items of tax preference), capital or net worth (including, without limitation, any such taxes collected by withholding) imposed by the United States Federal government, by any state or local taxing jurisdiction in the United States or by any foreign government or any subdivision or taxing authority thereof; (ii) taxes imposed on GE resulting from (A) GE's purchase or other acquisition of the Locomotives or of any item or component part thereof, (B) a voluntary or involuntary sale, assignment, transfer or other disposition by GE of the Locomotives or of any item thereof, or (C) a disposition in connection with a

bankruptcy or similar proceeding involving GE; (iii) taxes related to the Locomotives or any item thereof in respect of any period after the expiration or early termination of the rental term applicable to the Locomotives or any item thereof; (iv) taxes imposed on GE which arise out of or are caused by the negligence or willful misconduct of GE; (v) taxes resulting from any transfer or assignment of the Locomotives or any item thereof by GE (other than to SP or its assignee pursuant to the Purchase Agreement) and imposed against a transferee or assignee of GE, SP or the Locomotives or any item thereof to the extent of the excess of such taxes over the amount of taxes which would have been imposed had there not been such a transfer or assignment; or (vi) any interest, penalties or additions to tax attributable to a failure by GE to file when due any report or return required of GE by any taxing authority or to a failure by GE to pay or remit any tax when due.

(b) All reports and returns required to be made with regard to Taxes shall be made and filed timely by the party so required by the applicable taxing authority to make them; provided, however, SP shall be responsible for reporting the Locomotives for ad valorem property tax purposes in each applicable state or locality in the United States and GE shall not include the Locomotives in any ad valorem property tax or other similar tax returns filed by it in such states or localities.

(c) All payments of Taxes to be made by SP pursuant to this Section 5 shall be made no later than the date on which GE must pay such Taxes and shall be made directly to GE except to the extent paid by SP to a governmental agency or taxing authority in discharge of GE's liability for such tax. Any payment by SP to a governmental agency in satisfaction of Taxes for which it has a payment obligation under this Section 5 shall be given full credit against SP's obligations hereunder to the extent that such payment discharges GE's legal obligation to pay such Taxes.

(d) If any claim is made against GE, by commencement of proceedings against GE or otherwise, for any Taxes as to which SP would have a payment obligation pursuant to this Section 5, GE shall promptly notify SP of such claim in writing. SP may, at its expense, in good faith and by appropriate legal proceedings, contest or defend an asserted claim or liability for which it has a payment obligation under this Section 5. Any contest or defense conducted pursuant to this Section 5(d) may be conducted by SP either on its own behalf or, if required by the applicable jurisdiction, in GE's name on GE's behalf. If any such contest or defense is conducted in GE's name and on GE's behalf, SP shall advise GE of all action taken or proposed to be taken by the applicable taxing authority and of all action to be taken by SP, and shall permit GE upon request reasonable opportunity to review the content of all documentation proposed to be submitted. If GE reasonably believes that any such documentation, if submitted, would reflect negatively upon the integrity or business ethics of GE (for example, any document that GE reasonably believes is fraudulent or frivolous), then GE shall have the right to require such modifications to the documentation, as it shall reasonably deem

necessary, prior to submittal . In conducting any such review, GE agrees to act in good faith.

(e) Notices with regard to Taxes shall be sent by GE to SP via overnight or next-business-day courier addressed as follows:

Southern Pacific Transportation Company
One Market Plaza
Southern Pacific Building, Room 250
San Francisco, CA 94105
Attn.: Assistant Vice President and Counsel-Taxes
Facsimile No. (415) 541-1075

6. During the term hereof SP shall cause the Locomotives to be covered by a Maintenance Agreement to be independently entered into between GE and SP and shall, at its option, repair or promptly pay to GE the purchase price (as set forth in the Purchase Agreement) for any and all Locomotives that may be damaged or destroyed by any cause, other than GE's willful misconduct or negligent acts or omissions, during the term of this Agreement.

7. SP acknowledges that it takes its possessory interest in the Locomotives subject to those provisions of the Purchase Agreement relating to warranty, exclusion of certain warranties, remedies (and limitations of remedies) and limitations of liability and indemnities.

8. Prior to delivery under this Agreement, each Locomotive shall be numbered with a road number, and there shall be plainly, distinctly, permanently and conspicuously marked upon each side of each such Locomotive, the following legend in letters not less than one inch in height:

**OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE INTERSTATE COMMERCE COMMISSION.**

If during the term of this Agreement such markings shall at any time be removed, defaced or destroyed, SP shall promptly cause the same to be restored or replaced.

9. The parties agree that at the end of the term hereof as specified in Section 1, SP shall not have the option of returning the Locomotives to GE, but rather SP shall be required to pay the purchase price for the Locomotives (or cause the same to be paid) as required by the Purchase Agreement. In the event SP shall, in violation of its obligations under the Purchase Agreement, fail to pay (or cause payment to be made) for the Locomotives when due, GE may, in addition to any other remedies it may have, enter upon the premises of SP or such other premises where the Locomotives may be and take possession of all or any Locomotives, and thenceforth hold, possess and enjoy the same free from any right of SP or its affiliates, successors or assigns. In such event, SP's obligation to pay rent

hereunder shall cease, and GE may use the Locomotives for any purposes whatsoever, and may sell and deliver the Locomotives to others upon such terms as GE may see fit in its sole discretion, it being understood and agreed that SP shall remain liable to GE under the Purchase Agreement for: (a) an amount equal to any difference in the price paid by such other parties and the purchase price due from SP under the Purchase Agreement (less the value of GE's use of the Locomotives), plus (b) an amount equal to all reasonable expenses of GE incident to such sale including, without limitation, the expenses of withdrawing the Locomotives from the service of SP, providing for the care and custody of the Locomotives, preparing the Locomotives for sale, and selling the Locomotives. SP shall pay the foregoing amounts from time to time upon demand by GE. In the event that prior to any sale of the Locomotives by GE to a third party, SP shall pay the purchase price therefor, GE shall deliver the Locomotives and convey title thereto to SP, and all terms of the Purchase Agreement shall apply to such sale.

10. Each party hereto represents and warrants that:

(a) It is a duly organized and validly existing corporation in good standing under the laws of its state of incorporation, is duly qualified to do business in such jurisdictions where a failure to so qualify would have a material adverse effect on its ability to carry out the transactions contemplated by this Agreement, and has power and authority to own its properties and carry on its business as now conducted;

(b) The execution and delivery of this Agreement is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter or by-laws nor contravene or constitute a default under the provisions of any agreement or other instrument binding upon it, and this Agreement is a valid and binding obligation of it enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors generally and by general principles of equity; and

(c) No governmental authorizations, approvals or exemptions are required of it for the execution and delivery of this Agreement or for the validity and enforceability hereof against it or the bailment of the Locomotives hereunder on the terms and conditions provided herein, or, if any such authorizations are required of it, they have been obtained; and if any such shall hereafter be required of it, they will promptly be obtained.

11. SP represents and warrants that the rights of GE as herein set forth and the title of GE to the Locomotives are senior to the lien of any mortgage, security agreement or other instrument to which SP or any of its affiliates is a party.

12. SP agrees that the execution by GE of this Agreement or the delivery by GE of the Locomotives as contemplated by this Agreement shall not relieve SP of its


obligations to accept, take and pay for the Locomotives in accordance with the terms of the Purchase Agreement.

13. The execution of a Certificate of Acceptance in the form of Annex 1 hereto pertaining to any Locomotive shall constitute acceptance of such Locomotive hereunder and under the Purchase Agreement, but any warranty or other time period set forth in the Purchase Agreement applicable to such Locomotive shall be deemed to commence from the date of GE's delivery of the Locomotives as described in Section 6 of the Purchase Agreement.


14. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

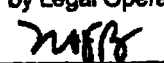
IN WITNESS WHEREOF, each party hereto has caused this Interim User Agreement to be executed by its respective authorized representative as of the date first written above.

**SOUTHERN PACIFIC
TRANSPORTATION COMPANY**

By: 
Name: LYNN DUCKEN
Title: Treasurer

GENERAL ELECTRIC COMPANY

By: 
D. B. Tucker, General Manager,
Americas' Locomotive
Marketing/Sales/Service

Approved as to Form by Legal Operation
 Attorney
5-15-94 Date

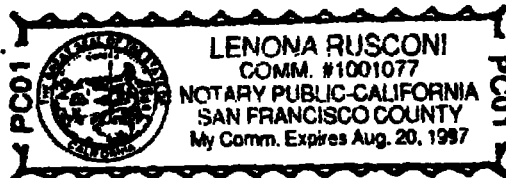
State of California

County of San Francisco

On May 16, 1994, before me, Lenona Rusconi, Notary Public, personally appeared ~~Lenona~~ Lynn Dunken personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Lenona Rusconi



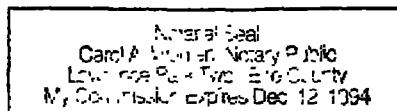
Commonwealth of Pennsylvania)
) ss:
County of Erie)

On this 13th day of May, 1994, before me personally appeared David B. Tucker, to me personally known, who, being by me duly sworn, says that he is General Manager, Americas' Locomotive Marketing/Sales/Service of the Transportation Systems Business Operation of General Electric Company, that the foregoing instrument was executed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[NOTARIAL SEAL]

Carol A. Walker
Notary Public

My Commission expires:



ANNEX 1
FORM OF CERTIFICATE OF ACCEPTANCE

I, a duly authorized representative of Southern Pacific Transportation Company ("SP"), do hereby certify that pursuant to the terms of a Purchase Agreement between SP and General Electric Company ("GE") dated as of March 8, 1994, I accept the following General Electric diesel electric locomotive(s) (the "Locomotive(s)") on this date:

<u>Description</u>	<u>Road Number(s)</u>
Dash 9-44CW	-----

This Certificate is executed to evidence satisfaction by GE of its delivery obligations pursuant to Section 3(b) of the Purchase Agreement in connection with the above Locomotive(s), and not to release GE from any of its other obligations under the Purchase Agreement.

**SOUTHERN PACIFIC
TRANSPORTATION COMPANY**

By: _____

Name: _____

Title: _____

Date: _____, 199__